IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 15062 of 2006
Date of Decision: Oct. 12,2007

Isham Singh and others ..... Petitioners

Versus

State of Haryana and others ..... Respondents

Coram: Hon'ble Mr.Justice Ashutosh Mohunta
Hon'ble Mr. Justice T.P.S. Mann

Present: Mr.G.K. Chatrath, Sr. Advocate, with
Ms. Anu Chatrath, Advocate
for the petitioners.

Mr. R.S.Kundu, Addl. A.G. Haryana, with
Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. C.L.Katyal, Advocate
for respondent Nos. 3 to 8.

Mr. R.K. Malik, Advocate
for respondent Nos. 9 to 19.

...

ASHUTOSH MOHUNTA, J.

This writ petition shall dispose of C.W.P. Nos. 15062, 15112, 15049, 13791, 14730, 15129, 13561 and 14782 of 2006 as common question of law and facts arises in all these writ petitions.

The petitioners have prayed that a writ in the nature of Certiorari be issued quashing the entrance examination dated 20.8.2006 conducted by the Haryana Staff Selection Commission for the post of Ayurvedic Medical Officer. The petitioners have also prayed that respondent No.2 be directed to hold re-examination for the post of Ayurvedic Medical Officer.

Respondent No.2 vide advertisement No. 5/2006 published in the newspaper on 7.5.2006 invited applications for various posts, beside 53 posts of

Ayurvedic Medical Officers from the eligible candidates. The educational qualification for the aforementioned post was as under:-

"(i) Knowledge of Hindi upto Matric standard.

(ii)A degree in Ayurvedic system of Medicine from any University or institution recognised by the Government."

The petitioners applied for the said post and appeared in the examination conducted by respondent No.2.

It is the case of the petitioners that when they saw the question papers, they were shocked to see that the question papers were set in Roman script (English language only) .

Mr. Chatrath, learned senior counsel for the petitioners, contends that the study of Ayurvedic System of Medicines is based upon the vedic theories of treatment and ayurvedic medicines and all vedic research material is available in Hindi or Devnagri script. It has been contended that in all the Ayurvedic Medical Colleges the medium of instructions is Hindi and Sanskrit and even the Central Council of Indian Medicines, New Delhi, has prescribed the syllabus of Ayurvedic system in Hindi language but as the papers were set in Roman Script instead of Devnagri script, hence, the petitioners were unable to understand the Sanskrit `Shalokas' and words written in Roman script as a result of which they could not understand and answer the questions properly. Learned counsel has further contended that the usage of Roman script in the written examination is contrary to Articles 343, 345, 347 and 351 of the Constitution of India and further that Hindi in Devnagri script is the official language of the State of Haryana and hence the usage of Roman script was not permissible for writing Hindi/Sanskrit and thus the setting of question papers in Roman script is *ultra vires* the act of the Legislature. Learned counsel contends that as per Article 343 of the Constitution of India the official language of the Union is Hindi in Devnagri script and what is permissible under the Constitution is that international form of Indian numerals can be used for the official purpose. It is also permissible under the Constitution to use English language if the law provides for it but it is not permissible to use Roman or English language for writing Hindi/Sanskrit and only Devnagri script could be used for setting the question papers in Hindi or Sanskrit. Learned counsel further submits that as the syllabus for the study of Ayurvedic system of medicines

is in Hindi, therefore, only Devnagri script could be used for setting the question papers and the petitioners could not have been asked questions in Hindi written in Roman script. It is submitted that the names of medicines and herbs have to be written in Devnagri script and as the petitioners have studied the BAMS in Devnagri script, therefore, they could not be expected to answer the questions in Hindi written in Roman and English script.

Mr. Amar Vivek, learned counsel for the petitioners in C.W.P. No. 14782 of 2006, has by and large argued on the same lines as Mr. Chatrath. Learned counsel contends that the Sanskrit Shalokas in the question papers were printed in Roman script, thus, making it impossible for the ordinary student to understand and answer the Sanskrit Shalokas in Roman script. It is contended that even a small grammatical mistake or expression changes the entire meaning and complexion of the Sanskrit Shalokas. It is further contended by the learned counsel that as the candidates were not accustomed to read question papers in Roman script and to solve them in English language, hence, it was impossible for them to attempt the question paper in English language.

Written statement has been filed on behalf of the respondents. It has been contended by Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana, that only those candidates were entitled to take admission in BAMS Course who had passed 10+2 with English subject. The syllabus of certain subjects in BAMS like Pathology, Microbiology, Anatomy, Physiology, Gynecology etc. is available in English only and the candidates of BAMS are required to study the aforementioned subjects in English language alone. Learned counsel has further submitted that as per para 13 of the Ordinance of Kurukshetra University the candidates who have successfully completed BAMS course are required to undergo rotating internship in approved Government Civil Hospitals/Ayurvedic Hospitals in the State of Haryana for a period of one year before the degree of Ayurvedacharya (BAMS) is conferred upon them. It is submitted that in the Civil Hospitals the medicines are prescribed in English and in this way the candidates get familiarity with allopathic medicines also which are read and prescribed in Roman script alone and, hence, the contention of the counsel for the petitioners that they could not understand the question papers in which Roman script was used has to be rejected. Learned counsel further

submits that a perusal of Ordinance of the Kurukshetra University (Annexure P-9) shows that "the medium of instruction and examination shall be Sanskrit and Hindi". It is contended that the Ordinance only provides for medium of instructions and examination shall be Sanskrit and Hindi but it does not provide as to whether the script would be in Roman or Devnagri and, hence, there is no violation of the Kurukshetra University Calender. Learned counsel also submits that even the Regulations issued by the Central Council of Indian Medicine (Annexure P-8) provides that medium of instruction and examination shall be Sanskrit/Hindi or any other approved regional language but the same does not talk about as to in which script the examination would be conducted whether it would be Roman or Devnagri and, hence, there is no violation of the instructions issued by the Central Council of Indian Medicine.

Counsel for the State has further submitted that the respondent Commission had prescribed the booklet in Hindi/Sanskrit language and had merely used the alphabets in English. In the multiple choice questions, the answer is already mentioned in the booklet itself and the candidates are merely required to tick the correct option in the answer-sheet for which English language may not pose any writing or understanding problems.

It has also been contended that the posts were advertised for all India and candidates of the Southern States like Kerala, Tamilnadu and Karnataka could also apply and compete for the said posts and if Devnagri script would have been used in the examination then these candidates could have had difficulty in understanding and answering the questions, but in Roman script no one would have had any difficulty.

Learned counsel further submits that even in the year 2001 the posts of Ayurvedic Medical Officers were advertised by the Haryana Public Service Commission and Roman script was used in the said examination. It is contended that all the candidates who prepare for the examination like to see the question papers of the examinations earlier conducted for the same posts and, hence, no prejudice has been caused to any of the petitioners.

Learned counsel for the private respondents i.e. respondent Nos. 9 to 19 have placed on record Annexure R1 along with their written statement according to which while conducting examination of BAMS IIIrd professional examination of `Kaya Chikitsa', Roman script was used. Mr.

Malik, counsel for respondent Nos. 9 to 19 has contended that Roman script was used in the screening test for the year 2007 conducted by HPSC for the same post. Learned counsel has also placed reliance on Annexure R3 which is a Post Graduate Entrance Test where the candidates with BAMS qualification can apply for admission in MD Courses and in the said test also only Roman script is used. In the light of the aforementioned arguments counsel for the respondents submits that the writ petitions are liable to be dismissed.

We have heard the learned counsel for the parties at length.

The first argument raised by Mr. Chatrath is that using of Roman script is contrary to Articles 343, 345, 347 and 351 of the Constitution of India. The aforementioned Articles are reproduced as under:-

*"**343. Official Language of the Union:***

(1)The official language of the Union shall be Hindi in Devanagri script. The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

(2) Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement.

345. Official Language or Languages of a State:

Subject to the provisions of Articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the Language or Languages to be used for all or any of the official purposes of that State.

347. Special provision relating to language spoken by a section of the population of a State:

On a demand being made in that behalf the President

may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.

351. Directive for development of the Hindi Language:

It shall be duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India specified in Schedule VIII, and by drawing, wherever necessary or desirable, for its vocabulary, primarily on Sanskrit and secondarily on other languages."

Article 343 deals with the official language of the Union. Article 345 deals with the official language of the State. Article 347 deals with the special provision relating to language spoken by a section of population of a State and Article 351 deals with directive for development of Hindi language. So, the above Articles are regarding official language of the Union or the States but do not prescribe as to in which language the examination is to be conducted by Constitutional Authorities like the Haryana Public Service Commission or the Haryana Staff Selection Commission. There is no provision under any Statutory Rules that the written test of Ayurvedic Medical Officer's post can be conducted in Hindi and not in English. In fact, some of the subjects like Anatomy, Physiology, Pathology, Laboratory Tests, Surgery etc. of the syllabus of BAMS are in English and are being taught in English language. The Ordinance of Kurukshetra University (Annexure P-9) provides that the medium of instructions and examination shall be Sanskrit and Hindi. However, it does not provide that the script to be used in the examination would be Devnagiri only. Apart from the above, even as per the Central Council of Indian Medicine's letter (Annexure P-8) which relates to the examination of BAMS

it is not mandatory that the paper can only be set in Devnagiri script and not in Roman script. Hence, the respondents have committed no illegality in setting the question papers of BAMS in Roman script.

A perusal of Annexure R1, which has been annexed with the written statement of respondent No. 9 to 19, shows that Roman script has been used while conducting the BAMS IIIrd professional examination of Kaya Chikitsa. A perusal of Annexure R-2 shows that in the year 2001 also Haryana Public Service Commission had conducted the examination for the post of Ayurvedic Medical Officer in Roman script and hence the argument of the counsel for the petitioners that the petitioners could not understand the questions which were set in Roman script cannot be accepted. All the candidates have passed their 10+2 with English subject as a compulsory subject and, hence, they cannot raise the plea that they could not understand the questions written in Roman script. Further the candidates were asked to tick mark the correct answer in the answer-sheet in which multiple choice was given. The candidates were not required to write their answers in English language. All the questions were in Hindi/Sanskrit language and only the script was English. As all the students are already studying the usage of words written in Roman script during their studies in BAMS Haryana, on this score also there is no illegality in setting the question paper in Roman script which is the basis of English language and has been allowed by Article 343 of the Constitution even for official language in whole of Union.

A perusal of the advertisement issued by respondent No.2 in the year 2001 also shows that Roman script was used in the said examination. All the candidates, when they prepare for the examinations, go through the question papers of the earlier years and, thus, it was amply clear to all the candidates that Roman script would be used in the examination for the post advertised. The question papers were set by expert bodies. The Experts are aware as to in which language or script the students can give their examination.

Apart from the above, all the petitioners have objected to holding of the test by respondent No.2 after they had appeared in the examination and duly attempted the papers but were declared fail. The petitioners having competed and lost, cannot challenge the usage of Roman

script in the written examination.

In view of the above, we find no merit in the writ petitions and the same are dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

12.10.2007 **(T.P.S.MANN)**
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